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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,047	12/13/2001	Matthew A. Hayduk	42390P12401	6573

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EXAMINER

ALI, SYED J

ART UNIT PAPER NUMBER

2195

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/017,047

Applicant(s)

HAYDUK, MATTHEW A.

Examiner

Syed J. Ali

Art Unit

2195

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.

Claim(s) objected to: None.

Claim(s) rejected: 1-27.

Claim(s) withdrawn from consideration: None.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.


SYED J. ALI
PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant continues to assert that Morizumi fails to teach or suggest "a second monitor communicatively coupled to a first monitor," arguing that there is no communication "between or amongst" load status monitors. Applicant requests clarification of how Morizumi teaches communicative coupling between monitors. First and foremost, Applicant's attention is directed to the specification, which indicates how the specific term of "coupling" is to be used. On page 6, lines 4-7, it is provided that for elements to be "coupled," they must be in direct physical or electrical contact, or alternatively, the elements are not in direct physical or electrical contact, but co-operate or interact with each other. It is the latter definition of coupling that falls within the teachings of Morizumi. That is, the geometry engines each submit signals to the command distributor, which uses high load signals to determine which processor should receive a command. Thus, the geometry engines co-operate by way of a central command distributor. Moreover, the geometry engines are in direct electrical contact by way of an interconnect; this is shown in Fig. 1 using well known techniques of indicating electrical contact. With respect to claim 15 and "polling a first processor," Examiner respectfully takes the position that the claim is constructed in such a way that the originator of the "polling" is undefined and therefore could include any component of the load balancing apparatus. Given this reading, it is entirely possible that the "polling" is self-initiated, i.e. the processor inquires into its own load status to determine if it can handle an additional request. Since Morozumi indicates that the processor self-initiates the load status inquiry, Morozumi teaches "polling a first processor."

Examiner notes the merit of Applicant's invention, i.e. the processors self-monitor and communicate load status amongst themselves without the benefit of a central distributor or load balancer. However, the claims are presented in such a way that does not preclude the existence of a command distributor, nor is it clear that the initiator of the "polling" is another processor rather than the processor being polled or a central distributor. The claims should be amended to clarify how the processors communicate with each other, rather than broadly presenting them as "communicatively coupled." This requires nothing more than an interconnect or bus to which all processors are attached.